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FEB 21 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. VN-2007-2505

12 **LATOYA WYENA-JOI RHONE**
13 **25350 Santiago Drive, #154**
Moreno Valley, CA 92551

A C C U S A T I O N

14 **Vocational Nurse License No. VN 185727**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs.

22 2. On or about September 17, 1998, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Vocational Nurse License Number VN 185727 to Latoya Wyena-Joi Rhone
24 (Respondent). The Vocational Nurse License expired on September 30, 2008 and was renewed
25 on September 24, 2012. Said license will expire on September 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.

All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Business and Professions Code (Code) section 118, subdivision (b), provides:

The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

STATUTORY PROVISIONS

6. Section 482 of the Code provides:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension of a license under Section 490. Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code provides, in pertinent part, that the record of conviction of a crime shall be conclusive evidence of the facts that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.

3 9. Section 2878 of the Code states:

4 The Board may suspend or revoke a license issued under this chapter [the
5 Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the
6 following:

7 (a) Unprofessional conduct, which includes, but is not limited to, the
8 following:

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10 (b) Procuring a certificate by fraud, misrepresentation, or mistake.

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12 (d) Violating or attempting to violate, directly or indirectly, or assisting in or
13 abetting the violation of, or conspiring to violate any provision or term of this chapter.

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15 (f) Conviction of a crime substantially related to the qualifications, functions,
16 and duties of a licensed vocational nurse, in which event the record of the conviction
17 shall be conclusive evidence of the conviction.

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19 (j) The commission of any act involving dishonesty, when that action is related
20 to the duties and functions of the licensee.

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22 10. Section 2878.5 of the Code states, in pertinent part:

23 In addition to other acts constituting unprofessional conduct within the meaning of this
24 chapter [the Vocational Nursing Practice Act] it is unprofessional conduct for a person licensed
25 under this chapter to do any of the following:

26 (a) Obtain or possess in violation of law, or prescribe, or except as directed by
27 a licensed physician and surgeon, dentist or podiatrist administer to himself or herself
28 or furnish or administer to another, any controlled substance as defined in Division 10
of the Health and Safety Code, or any dangerous drug as defined in Section 4022.

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11. Business and Professions Code section 4022 states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

12. Health and Safety Code section 11173 states, in pertinent part:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge, or (2) by the concealment of a material fact.

....

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 2504.1 states:

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to the request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information.

14. California Code of Regulations, title 16, section 2521, states, in pertinent part:

For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a licensed vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed vocational nurse to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those involving the following:

(a) Procuring a license by fraud, misrepresentation, or mistake.

....

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the Business and Professions Code.

.....
(f) Any crime or act involving the sale, gift, administration, or furnishing of "narcotics or dangerous drugs or dangerous devices" as defined in Section 4022 of the Business and Professions Code.

15. California Code of Regulations, title 16, section 2522 states, in pertinent part:

When considering . . . b) the suspension or revocation of a license on the ground that a licensee has been convicted of a crime, . . . the Board in evaluating the rehabilitation of an individual and his or her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.
- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and variety of current violations.
- (8) Mitigation evidence.
- (9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- (10) Time passed since the act(s) or offense(s) occurred.
- (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.
- (12) Cooperation with the Board and other law enforcement or regulatory agencies.
- (13) Other rehabilitation evidence.

COST RECOVERY

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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FIRST CAUSE FOR DISCIPLINE

(April 10, 2008 Criminal Conviction for Shoplifting on March 1, 2008)

17. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

18. On or about April 10, 2008, in a criminal proceeding entitled *People of the State of California v. Latoya Wyena Joi Rhone*, in the Riverside County Superior Court of California, Case No. RIM511716, Respondent was convicted on her plea of guilty of violating Penal Code section 490.5 (shoplifting), a misdemeanor.

19. As a result of the conviction, the court committed Respondent to a one-day custody for booking purposes only and placed Respondent on three years summary probation, case to run concurrent to Riverside Superior Court Case No. RIF143355. The Court also ordered that Respondent pay various fines and fees, submit person, automobile, residence, garage, storage areas, personal or leased property to search and seizure, and pay restitution to the victim.

20. The facts that led to the conviction are that on or about March 1, 2008, at approximately 12:00 p.m., Riverside County Sheriff's Office Deputies responded to Rite Aid regarding a shoplifter who had been placed under citizen's arrest. Upon arrival, deputies made contact with the store manager who informed officers that he observed Respondent walk out of the store with a digital camera that she did not pay for. The manager confronted Respondent outside the store and Respondent admitted to the manager that she stole two cameras and a drug test kit with a combined value of approximately \$180. Respondent was issued a citation and released.

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SECOND CAUSE FOR DISCIPLINE

(December 23, 2008 Criminal Conviction for Willfully and Unlawfully Obtaining Personal Identifying Information of Another Person on April 25, 2008)

21. Respondent is subject to disciplinary action under Code sections 490 and 2878, subdivision (f), in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a vocational nurse. The circumstances are as follows:

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1 22. On or about December 23, 2008, in the Superior Court of California, County of
2 Riverside, Respondent was convicted on her plea of guilty of violating Penal Code section 530.5,
3 subdivision (a), a felony which, pursuant to Penal Code section 17(b)(3), was charged as a
4 misdemeanor. As a result of a plea agreement, charges for violating Penal Code sections 459
5 (burglary), a felony, and 148.9 (giving false identity to peace officer), a misdemeanor, were
6 dismissed.

7 23. As a result of the conviction, the Court placed Respondent on three years summary
8 probation and ordered her to serve 60 days in the county jail, with 7 days actual and two days
9 good time credits, for a total of 51 days to be served on consecutive weekends. The Court also
10 ordered that Respondent pay various fines and fees, submit person, automobile, residence, garage,
11 storage areas, personal or leased property to search and seizure. The Court further ordered that
12 Respondent not have any negative contact with Moreno Valley Community Hospital.

13 24. The circumstances that led to the conviction are that on April 25, 2008, Riverside
14 County Sheriff's Deputies were dispatched to Moreno Valley Community Hospital regarding a
15 suspicious person. Upon arrival, deputies made contact with a nurse who informed deputies that
16 Respondent entered the emergency room and presented an IEHP insurance card with the name
17 A.J. and complained of lower back pain and migraine headaches. The nurse told deputies that
18 staff asked Respondent for identification and Respondent stated she did not have any
19 identification with her. Hospital staff then asked Respondent for her social security number to
20 verify her identity and the social security number Respondent gave hospital staff did not exist.
21 Respondent filled out the emergency room department sign-in sheet using the name A.J. with
22 A.J.'s date of birth as XX-XX-88. When staff reviewed the sign-in sheet, it showed Respondent
23 was 20 years old and when it was brought to Respondent's attention, she quickly changed the
24 year she was born from 1988 to 1978. The hospital nurse told deputies that Respondent received
25 medical treatment for her lower back pain and migraine headaches prior to the deputies' arrival,
26 and that the medical charges for Respondent's treatment was \$1,700.

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25. Deputies made contact with Respondent who identified herself as A.J. and told deputies she did not have any identification with her and could not remember her driver's license number. Deputies asked Respondent if there was anyone who they could call to verify Respondent's identify, and Respondent told officers that they could call her grandmother, K.C. Deputies called Respondent's grandmother and she told deputies that Respondent lived with her and that her name was Latoya Rhone. Respondent was placed under arrest. Deputies searched Respondent's purse and located a California Driver's License with her real name. Deputies also located a bottle of prescription medication and an IEHP insurance card in A.J.'s name on both. While deputies searched Respondent's purse, she told deputies that her insurance company sent her the wrong insurance card with someone else's name and that her primary doctor told her to go to the emergency room if she needed to and that it would be "okay" to use A.J.'s insurance card even though it was not hers. The prescription bottle inside Respondent's purse was prescribed on 4-25-08 for Lorazepam with A.J.'s name listed on the bottle. Respondent was transported to the Moreno Valley Police Station for processing and later booked at the Robert Presley Detention Center.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Possession of Controlled Substances Without a Prescription)

26. Respondent is subject to disciplinary action under Code section 2878.5, subdivision (a), and California Code of Regulations, title 16, section 2521(f), in that on April 25, 2008, Respondent possessed the controlled substance Lorazepam without a prescription, as defined by Code section 4022, and as more fully detailed at paragraphs 21-25, above, which are incorporated here by reference.

FOURTH CAUSE FOR DISCIPLINE

(Commission of Acts Involving Dishonesty)

27. Respondent is subject to disciplinary action under code section 2878, subdivision (j), in that Respondent committed acts involving dishonesty when she shoplifted and obtained the personal identifying information of another, as is more fully detailed under the First and Second

1 Causes for Discipline at paragraphs 17 through 25, above, which are incorporated here by
2 reference.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Procuring a Certificate/License by Fraud and/or Misrepresentation)**

5 28. Respondent is subject to disciplinary action under Code section 2878, subdivision (b),
6 in that on her September 24, 2012 renewal application, in answer to the question:

7 "11. SINCE YOUR LAST RENEWAL, HAVE YOU HAD ANY LICENSE
8 DISCIPLINED BY A GOVERNMENT AGENCY OR BEEN CONVICTED OR
9 PLED GUILTY TO ANY CRIME? A conviction must be reported regardless of
10 whether it was an infraction, misdemeanor, or felony, except that you need not report
11 a conviction for a traffic infraction if the fine was less than \$300 and the infraction
did not involve alcohol or controlled substances. You must, however, disclose any
conviction in which you entered a plea of no contest (Nolo Contendere) and any
convictions that were subsequently set aside or dismissed pursuant to Sections 1000
and 1203.4 of the Penal Code."

12 Respondent answered "No," and failed to disclose the convictions that are detailed in the First
13 and Second Causes for Discipline at paragraphs 17-25, above, and under Disciplinary
14 Considerations at paragraph 31, below, which are incorporated here by reference.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 **(Failure to Respond to the Board's Inquiry)**

17 29. Respondent is subject to disciplinary action under Code section 2878, subdivision (a),
18 and California Code of Regulations, title 16, section 2504.1, in that Respondent failed to respond
19 to Board written inquiries dated May 24, 2008, September 26, 2008, December 18, 2008,
20 January 16, 2009, October 12, 2010, February 16, 2011, and April 12, 2012.

21 **DISCIPLINARY CONSIDERATIONS**

22 30. To determine the degree of discipline, if any, to be imposed on Respondent for the
23 violations alleged above, pursuant to California Code of Regulations, title 16, section 2522,
24 Complainant alleges:

25 31. On or about July 21, 2009, in a criminal proceeding entitled *People of the State of*
26 *California v. Latoya Wyena Joi Rhone*, in the Superior Court of California, County of Riverside,
27 in Case No. RIM533365, Respondent was convicted on her plea of guilty of violating Penal Code
28 section 415(2) (maliciously and willfully disturbing another by loud and unreasonable noise), a

1 misdemeanor. As a result of a plea agreement, a charge of violating Health and Safety Code
2 section 11357(b) (possession of less than 28.5 grams of marijuana), a misdemeanor, was
3 dismissed.

4 32. On or about August 7, 2012, in a criminal proceeding entitled *People of the State of*
5 *California v. Latoya Wyena Joi Rhone*, in the Superior Court of California, County of Riverside,
6 in Case No. RIF1203522, a complaint was filed against Respondent alleging violation of Penal
7 Code section 245(A)(1) (assault with a deadly weapon/instrument non-firearm likely to produce
8 great bodily injury), and 422 (criminal threats), felonies. On August 17, 2012, a warrant was
9 issued for Respondent's arrest, which remains active. The circumstances are as follows:

10 33. In May of 2012, the Moreno Valley Police Department conducted an investigation
11 regarding teenagers assaulting other teenagers in the area of 2611 Tarara Drive, Moreno Valley,
12 California. When adults became involved in the incident, Respondent, who was reportedly
13 related to some of the teenagers, allegedly came to the area of the assault and confronted one of
14 the adults while brandishing a knife. The Moreno Valley Police Department conducted
15 photographic lineups before several witnesses, who identified Respondent as the person who
16 brandished the knife.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
20 issue a decision:

21 1. Revoking or suspending Vocational Nurse Number VN 185727 issued to Latoya
22 Wyena-Joi Rhone;

23 2. Ordering Latoya Wyena-Joi Rhone to pay the Board of Vocational Nursing and
24 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
25 pursuant to Business and Professions Code section 125.3;

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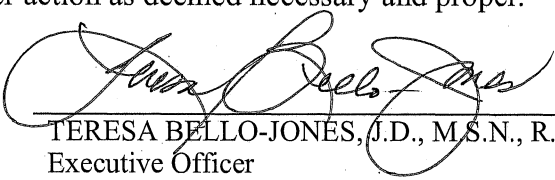
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3. Taking such other and further action as deemed necessary and proper.

DATED: FEB 21 2013



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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